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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,821	08/06/2003	Mickey L. Fong	P08007US00/RFH	6746
881	7590	08/16/2004	EXAMINER	
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			SINGH, SUNIL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,821

Applicant(s)

FONG, MICKEY L.

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/18/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-9, 11-13, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanocki et al. (US 4923332).

Sanocki et al. discloses a floatation device for use as a barrier, said floatation device comprising an outer elongate tubular member (12) fabricated of metal an inner elongate tubular member (19,20) concentric with said outer tubular member and spaced therefrom so as to form a cavity therebetween; a floatation medium (14) within said cavity and a floatation medium (18) within said inner tubular member.

With regards to claim 11, a mounting member (11) for enabling the mounting of a superstructure thereon.

With regards to claims 12, 13, the floatation device further comprises a barrier structure (the lower portion of member 11) depending downwardly, in use, from the outer tubular member.

With regards to claim 15, the superstructure is considered as member 11.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3673

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 18, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanocki et al. in view of Preus or Dreyer (US 4062191, 2003/0072616).

Sanocki et al. discloses the invention substantially as claimed. However, Sanocki is silent about having a plurality of barrier members connected. Preus and Dreyer both teach a plurality of barrier members connected (see Figs. 1 and 4,5 respectively). It would have been considered obvious to one of ordinary skill in the art to modify Sanocki et al. to include a plurality of barriers connected together as taught by either Preus or Dreyer in order to easily adjust the area of converge of the barrier.

5. Claims 1-8, 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al. (US 2003/0136325) in view of Wieland (US 1004718).

Wooley et al. discloses a floatation device for use as a barrier, said floatation device comprising an inner elongate tubular member (12,27) a floatation medium (21) within said inner tubular member. Wooley et al. discloses the invention substantially as claimed. However, Wooley et al. lacks an outer elongate tubular member with a floatation medium within the cavity formed between the outer tubular member and an inner tubular member. Wieland teaches an outer elongate tubular member (1) with a floatation medium (see Fig. 5) within the cavity formed between the outer tubular member and an inner tubular member. It would have been considered obvious to one of ordinary skill in the art to modify Wooley et al. to include the outer tubular member with a floatation medium within the cavity formed between the outer tubular member

Art Unit: 3673

and inner tubular member as taught by Weiland in order to provide a barrier that can withstand greater impact.

The outer tubular member is comprised of a metal selected from the group consisting of steel, stainless steel and aluminum (see Weiland line 50+).

The inner tube is comprised of a material selected from the group consisting of steel, stainless steel, aluminum and a polymer material (see Wooley et al. see paragraph [0066]).

A connection member (see Wooley et al. (57)) at opposite ends thereof.

A mounting member (see Wooley et al. 13,15) for enabling the mounting of a superstructure thereon.

A barrier structure depending downwardly (see Wooley et al. 46), in use, from the outer tubular member.

A plurality of protective barrier elements (19) projecting outwardly from the outer tubular member.

At least two longitudinally extending connector members (12, see Wooley et al.).

At least one sign secured to at least one of said connector members of said superstructure (see Wooley et al. paragraph [0045]).

The barrier units (27) are further connected together end to end by a further said floatation device (12).

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al. in view of Weiland as applied to claim 21 above, and further in view of Kasai et al. (US 4174186).

Art Unit: 3673

Wooley et al. (once modified) discloses the invention substantially as claimed.

However, the (once modified) Wooley et al. lacks a cable interconnecting the barrier units. Kasai et al. teaches a cable (36) interconnecting barrier units. It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Wooley et al. to connect the barrier units by cable means as taught by Kasai et al. since such an arrangement is conventional.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al. in view of Weiland as applied to claim 19 above, and further in view of Good (US 6602103)

Wooley et al. (once modified) discloses the invention substantially as claimed.

However, the (once modified) Wooley et al. lacks the connecting means called for in claim 24. Good teaches the connecting means called for in claim 24 (see Fig. 4). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Wooley et al. to connect the barrier units by the means as taught by Good since such an arrangement is conventional.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

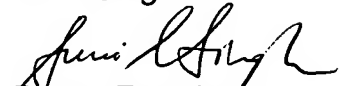
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone

Art Unit: 3673

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh


Patent Examiner
Art Unit 3673

SS



8/9/04